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09/824,453	04/02/2001	Brian Thomas Dorricott	P-3018.001	9505

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EXAMINER
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KENDALL, CHUCK O

ART UNIT	PAPER NUMBER
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2122

DATE MAILED: 03/23/2004

7

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

9/824,453

Applicant(s)

DORRICOTT, BRIAN THOMAS

Examiner

Chuck O Kendall

Art Unit

2122

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 05 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

1. This action is in response to the application filed 1/5/04.
2. Claims 1, 2, 4 – 7 have been examined.

**Claim Rejections - 35 USC § 102**

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

4. Claims 1,2,5 & 7 are rejected under 35 U.S.C. 102(e) as being anticipated by Parthesarathy et al. USPN 6,353,926 B1.

Regarding claim 1, Parthesarathy anticipates a method of updating computer software and/or data in a recipient computer comprising the steps of:

said recipient computer sending an update request as an e-mail message to an owner computer (Col. 2:17 – 23);

said owner computer automatically analyzing the update request and preparing a corresponding update response (Col. 6:1 – 31, see “automatically updating the user’s computer every time a new update is detected”) in response to receiving update request email (Col. 2: 20 – 25, see email and also see “(.lnk file)”);

said owner computer automatically sending said update response as an e-mail message to said recipient computer (Col. 6:1 – 31, 10:1 – 5), wherein one or more files to be updated are sent as attachment files in the e-mail message (Col. 6: 29 – 31, for attachment see gleaming the icon, for attachment also see 10: 7 – 10, for LNK file); and

said recipient computer automatically responding to said update response by updating said software and/or data (Col.6:1 – 31 see “...automatically updating the

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user's computer...", Col.10:1 – 10, see " launches the application by clicking on the LNK file...").

Regarding claim 2, a method as claimed in claim 1, in which the update request is compiled at the recipient computer by reference to a data directory, and the update response is compiled at the owner computer by reference to the same data directory, only files identified in the update request being updated in the update response (Col.10: 1 –10, for data directory see registry).

Regarding claim 5, a method as claimed in claim 1, in which the e-mail update request is transmitted via the Internet (Col.10: 1 – 5).

Regarding claim 7, a method as claimed in claim 1, in which the computer software and/or data to be updated consists of one of a virus signature, a software application or data to be backed-up by the owner computer (for software application see FIG. 3, 108 see software update).

### **Claim Rejections - 35 USC § 103**

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 4 & 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parthesarathy et al. USPN 6,353,926 as applied in claim 1, in view of Cantos et al. USPN 6,529,784 B1.

Regarding claim 4, Parthesarathy discloses all the claimed limitations as applied in claim 1 above. Parthesarathy doesn't explicitly disclose in which the update response is protected by a password. However, Cantos does disclose this feature,

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(10:60 – 62). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Parthesarathy with Cantos because, it ensures that communications between the control server and agents associated with the customer network are secure and uncorrupted (Cantos, Col. 4: 56 – 60, also see Col.10:56 – 60).

Regarding claim 6, Parthesarathy discloses all the claimed limitations as applied in claim 1 above. Parthesarathy doesn't explicitly disclose that a fire protects computer - wall through which it communicates in sending said e-mail update request. However, Cantos does disclose this feature, (Cantos, Col. 4:59, see firewall). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Parthesarathy with Cantos because, it ensures that communications between the control server and agents associated with the customer network are secure and uncorrupted (Cantos, Col. 4:56 – 60, also Col.10: 56 – 60).

### ***Response to Arguments***

Applicant's arguments with respect to claims 1, 2, 4 – 7 have been considered but are not persuasive to overcome previous rejections. See response below.

For example:

Argument (1), Applicant argues in page 5 of response dated 1/5/04 first paragraph, that Prior art does not teach "a corresponding update response are all automatic and are performed in response to receipt of the update request e-mail".

Response (1), Examiner believes that the Prior art still teaches these limitations as amended by Applicant. As set forth in claim 1 above, (Col. 6:1 – 31, see "automatically updating the user's computer every time a new update is detected", also see Col. 2: 20 – 25, for email and also see "(.lnk file)").

Argument (2), In page 6 first paragraph of response dated above, Applicant argues also that Prior art doesn't teach " an e-mail message, with one or more files to be updated sent as attachment files in the e-mail message".

Response (2), As set forth in claim 1 above, Examiner believes that prior art does teach this limitation. See Parthesarathy, (Col.6:1 – 31 see "...automatically updating the user's computer...", Col. 10:1 – 10, also see " launches the application by clicking on the LNK file..."). The LNK file here is equivalent to the attachments files in the e-mail message.

Argument (3), In page 9, 1<sup>st</sup> paragraph of the same response, Applicant argues in claim 4, for lack of motivation to combine references (Parthesarathy, and Cantos).

Response (3), Examiner believes that there is a motivation to combine references. As well as being analogous prior art, Both Parthesarathy and Cantos deal with updating a process or system over a communications protocol, e.g. Internet see *Parthesarathy* (Col. 4:5 – 7) also see *Cantos* (Col.4: 50 – 5: 20). In Col. 4: 50 – 60 Cantos recites, " Where a public network is used, communication between the control server 4, the communications network 14 and customer network components connected to the communications network 14, ... may be passed through a firewall and/or encrypted server to ensure that these communications are secure and uncorrupted". Also in Col: 10: 60 – 62, Cantos recites, " ...the customer may be assigned a unique identification code, password or cryptographic key ". Therefore, since Both Parthesarathy and Cantos disclose a public network one in the art would be motivated to make that combination to make the system more secure.

Claim 6 has also been re-mapped to provide better clarification for Applicant. However, Examiner still uses previously recited portions of Prior art.

### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

### **Correspondence Information**

8. Any inquires concerning this communication or earlier communications from the examiner should be directed to Chuck O. Kendall who may be reached via telephone at (703) 308-6608. The examiner can normally be reached Monday through Friday between 8:00 A.M. and 5:00 P.M. est.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Dam *can be* reached at (703) 305-4552.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

For facsimile (fax) send to central FAX number 703-872-9306 *and* 703-7467240 draft.

*Chuck O. Kendall*

*Software Engineer Patent Examiner*

*United States Department of Commerce*

A handwritten signature in black ink, appearing to read 'Tuan Dam', with a long horizontal flourish extending to the left.

TUAN DAM  
SUPERVISORY PATENT EXAMINER